

REMARKS

Applicant intends this response to be a complete response to the Examiner's **29 August 2003** Final Office Action. Applicant has labeled the paragraphs in his response to correspond to the paragraph labeling in the Office Action for the convenience of the Examiner.

Preliminary Remarks

Applicants added new claims 21-29 in the response to the last office action; however, the Examiner has not ruled on the status of these claims. Applicants, therefore, respectfully request a ruling by the Examiner.

Rejections Under 35 U.S.C. §102

8. **Claims 1-10 and 19-20** stand rejected under 35 U.S.C. § 102(b) as being anticipated by Yamaguchi et al and under 35 U.S.C. § 102(a) as being anticipated by Gnanasambandam et al. Applicants traverse and respectfully request reconsideration based on the above claim amendments, if any, and the remarks presented herein.

The Examiner contends as follows:

3. The claims stand rejected for the reasons set forth in the last Office Action (Paper No. 6, mailed 3/19/03).
4. Applicant's arguments filed 6/2/03 have been fully considered but they are not persuasive. In particular, Applicants refer to a provision application (60/134652) based on a university disclosure statement, wherein same provides a date earlier than the publishing date for the Gnanasambandam et al. reference. However, Applicants are directed to submit said evidence by way of an affidavit under 37 CFR 1.131 to demonstrate the "swearing back" behind the Gnanasambandam et al. reference.

Applicants hereby submit evidence to antedate the Gnanasambandam et al. article which is based on the work of the inventors. Applicants filled an original provisional application covering a major portion of this application bearing serial number 60/134652 filed May 18, 1999 based on a university invention disclosure statement received on 23 November 1998. Applicants support the evidence for antedating the Gnanasambandam et al. article in the attached Rule 131 Declaration. Applicants, therefore, respectfully request the removal of the Gnanasambandam et al. article as a reference against the present application and withdrawal of this section 102(e) rejection.

As to Yamaguchi et al., the present invention is distinguished from the Yamaguchi et al. product for at least the following reasons: (1) the Yamaguchi et al. pectin is from whole soy bean curd (referred to as *Okara* in the paper) and not from hulls and/or hypocotyl; (2) the Yamaguchi et al. pectin was extracted using a phosphate buffer; (3) the Yamaguchi et al. pectin crude sample had a substantially different compositional breakdown compared to the present pectin; (4) although Yamaguchi et al. do not disclose the color value of their crude product, the crude product likely does not have an L value of 85 and more. Yamaguchi did not specify the steps used to clean up the whole soybeans prior to formation of the whole soy bean curd. Unless the soil from the soybeans was removed prior to extracting the pectin, the resulting pectin will certainly be poor in color, having an L value less than 85. Furthermore, the whole bean curd derived pectin will likely have an L value less than 85 because of all the lipids, soybean oils and other impurities left in the whole soybean curd. The inventors tried many different extraction procedures until they were able to produce a soy pectin material that had an L value of 85 or greater. Many of these failed attempts used extraction conditions that more closely resemble the Yamaguchi et al. process than the present process as evidenced by the substantial difference in the nature of the crude pectin produced.

The substantial difference between the pectin extracted from whole soy bean curd and that extracted from hulls and hypocotyl clearly differentiates the present product as currently claimed from the Yamaguchi et al. product. Moreover, the present product has an L value of 85 or more, a value likely not achieved in the crude whole bean extract of Yamaguchi et al. Because Yamaguchi et al. is directed to a wholly different petinaceous material as evidenced by the compositional breakdown in Tables 1 and 2 compared to claim 4 of this invention and from a wholly different source (curd instead of hulls and hypocotyl), the present invention is not anticipated by Yamaguchi et al. and Applicants, respectfully request withdrawal of this section 102(b) rejection.

Moreover, the present invention is not rendered obvious in view of Yamaguchi et al. because Yamaguchi et al. do not disclose, teach or suggest extracting pectin from hulls and hypocotyls that has such a different compositional make up to the Yamaguchi et al. product. Yamaguchi et al. also do not disclose, teach or suggest a pectin having the compositional

breakdown of the pectin of this invention and do not disclose, teach or suggest how one would make such a pectinaceous product.

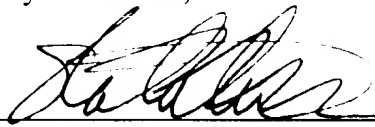
One claim in excess of the 20 allowed claims has been added. The Director of Patents is authorized to charge Deposit Account 501518 for the \$9.00 additional claims fee or any other underpayment or the credit the Deposit Account for any overpayment.

Having fully responded to the Examiner's Non-Final Office Action, Applicant respectfully urges that is application be passed onto allowance.

If it would be of assistance in resolving any issues in this application, the Examiner is kindly invited to contact applicant's attorney Robert W. Strozier at 713.977.7000

Date: **October 2, 2003**

Respectfully submitted,



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Reg. No. 34,024